

DEC 05 2006

Serial No. 10/518,279

Remarks/Arguments

Favorable reconsideration of the application is respectfully requested in view of the above amendment and the following remarks.

Claims 1-6, 8, 10 and 11 are pending. Claims 1-5, 8, 10 and 11 have been rejected. Claim 1 has been amended. Claim 10 has been canceled without prejudice. Applicants reserve the right to file a divisional application to cancelled claim 10.

Claim 10 has been rejected under 35 U.S.C. §112, second paragraph, as being indefinite. In particular, the Examiner contends that method claim 10 is of indeterminate scope for several reasons as set forth in the Action. To facilitate prosecution while not necessarily agreeing with the grounds for this rejection, claim 10 has been cancelled without prejudice.

In view of the above, withdrawal of the rejection of claim 10 under 35 U.S.C. §112, second paragraph, is respectfully requested.

Claims 1-5, 8 and 10-11 have been rejected under 35 U.S.C. §112, first paragraph. In particular, the Examiner contends that the specification, while being enabling for R6/R7 when not forming rings together and for the octahydro pyrido [1,2-a] pyrazine ring made, does not reasonably provide enablement for any fused piperazine permitted at R6/R7. The Examiner also contends as there are no such other bicyclic compounds that have been made corresponding to the instant scope which include carbo- and heterofused rings having 4 to 7 members and having O or S, there is no reasonable basis for assuming that the myriad of compounds embraced by the generic claims will all share the same physiological properties, since they are so structurally dissimilar as to be chemically non-equivalent and there is no basis in the prior art for assuming the same.

In response, to facilitate prosecution while not necessarily agreeing with the grounds for the rejection claim 1 has been amended to delete recitation in R6 and R7 of the phrase "optionally containing a further heteroatom selected from O and S."

In view of the above, withdrawal of the rejection of claims 1-5, 8 and 10-11 under 35 U.S.C. §112, first paragraph, is respectfully requested.

Claims 1-4, 8, and 10-11 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The Examiner contends that the R6/R7 definitions appearing at the bottom of page 4 are repetitive as far as the Examiner can determine.

Applicants respectfully traverse this rejection. It is submitted that while the R6/R7 definitions appear repetitive, R7 can be a 4-7 membered saturated heterocyclic ring or R7 can be H, (C<sub>1-4</sub>)alkyl or (C<sub>3-6</sub>)cycloalkyl, the alkyl groups being optionally substituted with OH, halogen or (C<sub>1-4</sub>)alkyloxy. Since R7 can be other groups besides a 4-7 membered saturated heterocyclic ring, it is believed that deletion of the phrase "a 4-7 membered saturated heterocyclic ring" would not convey the complete definition of R7.

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In view of the above reason, withdrawal of the rejection of claims 1-4, 8 and 10-11 under 35 U.S.C. §112, second paragraph, is respectfully requested.

Claim 6 has been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form. In response, at this stage in prosecution Applicants decline the Examiner's Invitation to amend claim 6.

A good faith effort has been made to place the present application in condition for allowance. If the Examiner believes a telephone conference would be of value, she is requested to call the undersigned at the number listed below.

Respectfully submitted,



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